



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/904,975	07/12/2001	Dan W.C. Delmer	DELME-P2739	3783
21259 7590 09/18/2007 J. MARK HOLLAND AND ASSOCIATES 3 SAN JOAQUIN PLAZA SUITE 210 NEWPORT BEACH, CA 92660			EXAMINER DUNWOODY, AARON M	
			ART UNIT 3679	PAPER NUMBER
			MAIL DATE 09/18/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 09/904,975	Applicant(s) DELMER, DAN W.C.	
	Examiner Aaron M. Dunwoody	Art Unit 3679	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 25 June 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 2,3,5-7 and 35-42 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 2,3,5-7 and 35-42 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

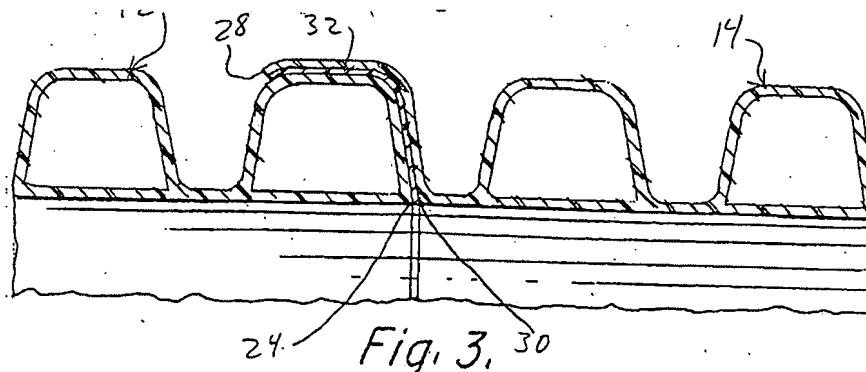
Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

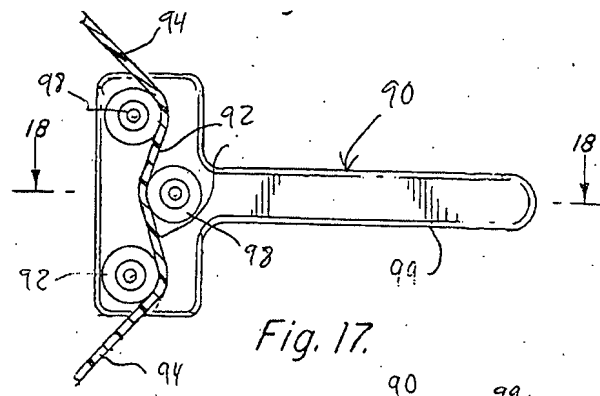
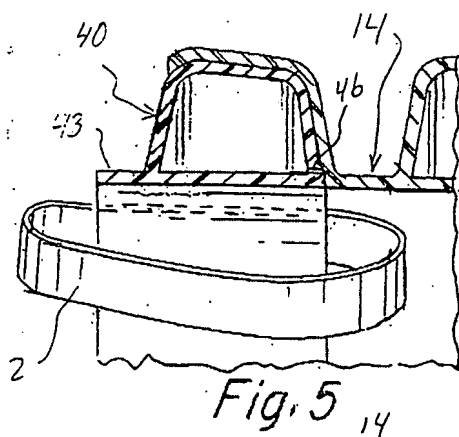
The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 35-42 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 35-42 are drawn to a stretching tool or a temporary stretching-holding device; however, it is not clear to the Examiner how elements further limit the elected invention/apparatus, as illustrated in Figure 3 below of the instant application.



The stretching tool and temporary stretching-holding device are not required to meet the claim limitations of independent claim 2, as evidenced by Applicant's restriction election filed 7/3/2006. The stretching tool and temporary stretching-holding device, illustrated Figures 5 and 17 below, are not part of the final apparatus illustrated above and claimed in the instant application.



The stretching tool and temporary stretching-holding device are tools used to form the end of the pipes, which ends can be formed by various other methods that do not include a stretching tool and a temporary stretching-holding device. At best, the stretching tool and temporary stretching-holding device can be considered intermediate devices that do not represent the final apparatus as claimed in independent claim 2. Claims 35 and 37 recite the following product-by-process:

35. (New) The apparatus of Claim 2, further including a stretching tool having a channel into which an edge of said first piece of pipe can be inserted in its originally fabricated shape, said tool including means to temporarily deform said edge of said first piece of pipe.

37. (New) The apparatus of Claim 2, further including a temporary stretch-holding device having a first portion for temporary insertion into said temporarily deformed female structure of said first pipe piece, said first portion being sized and configured to retain a sufficient degree of deformation of said temporarily deformed female structure so that, upon removal of said temporary stretch-holding device from said temporarily deformed female structure, a non-deformed end of said second piece of pipe may be inserted into engagement with said female structure.

The process by which an apparatus formed is not given patentable, only the final apparatus is considered for patentability, and the stretching tool and temporary

Art Unit: 3679

stretching-holding device are obviously not part of the final apparatus illustrated above. Therefore, the Examiner is unable to determine the meets and bounds of claims 35-42, as these claims fail to further limit independent claim 2, making it impossible for the Examiner to apply an art rejection.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 2, 3 and 5-7 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by US patent 4037626, Roberts.

In regards to claim 2, in Figure 3 below, Roberts discloses an apparatus for joining a plurality of pieces of pipe, including:

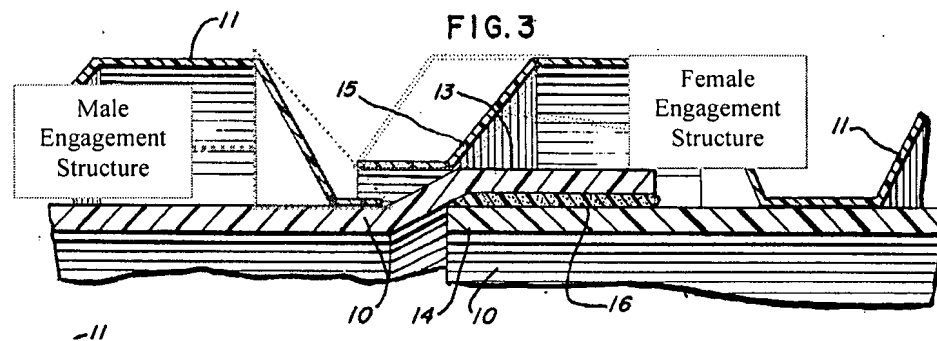
a first piece of pipe (11) and a second piece of pipe (11) each having a similar size and shape sidewall corrugation pattern along their lengths;

a first female engagement structure formed from the sidewall corrugation pattern of the first piece of pipe; and

a male engagement structure formed from the sidewall corrugation pattern of the second piece of pipe, the first female structure being temporarily deformed for receiving the male structure, the temporary deformation being both sufficiently large to permit the insertion of the male structure but also sufficiently small to ensure that material memory returns the first female structure toward its original non-deformed configuration with

sufficient compressive force to grip the male structure and prevent its inadvertent removal from engagement with the first female structure, and

wherein the female structure includes an inwardly projecting engagement element at its leading edge acting between said first and said second pieces of pipe to increase the force necessary to disengage said pipe pieces from each other following assembly.



Note, the method of forming the device is not germane to the issue of patentability of the device itself. Therefore, this limitation is given little patentable weight.

In regards to claim 3, Roberts discloses said pipe sidewall corrugation pattern of each piece of pipe includes a corrugated exterior surface and an internal non-corrugated liner element (10).

In regards to claim 5, Roberts discloses the first piece of pipe includes a second female engagement structure remote from the first female structure (not shown but implied), the second female structure also being temporarily deformed to function as a female structure for receiving a corresponding non-deformed end of a third piece of pipe (not shown but implied), the third piece of pipe having a sidewall corrugation pattern

along its length that is similar in size and shape to the sidewall corrugation pattern of the first and second pieces of pipe.

In regards to claim 6, Roberts discloses a sealing element (16) positioned between confronting surfaces of the first and second pieces of pipe to help provide a watertight seal therebetween.

In regards to claim 7, Roberts discloses an adhesive material (16) acting between confronting surfaces of the first and second pieces of pipe to bond the first and second pieces to each other upon insertion of the second piece into the female structure of the first piece of pipe.

Response to Arguments

Applicant's arguments filed 6/25/2007 have been fully considered but they are not persuasive.

Applicant argues that Roberts fails to disclose various features of claim 2. The Examiner disagrees. In Figure 3 above, Roberts clearly illustrates all claimed features of claim 2.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the


Art Unit: 3679

shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Aaron M. Dunwoody whose telephone number is 571-272-7080. The examiner can normally be reached on 7:30 am - 4:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Daniel P. Stodola can be reached on 571-272-7087. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.


Aaron M Dunwoody
Primary Examiner
Art Unit 3679

.amd